

## § 983.68

by the Secretary, have been engaged in the production for market of pistachios in the production area. Such termination shall be announced on or before the end of the production year.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease.

## § 983.68 Procedure upon termination.

Upon the termination of this part, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the concurrence of a majority of said trustees. Such trustees shall continue in such capacity until discharged by the Secretary, and shall account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such persons as the Secretary may direct; and shall upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all the funds, properties, and claims vested in the committee or the joint trustees, pursuant to this part. Any person to whom funds, property, or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon said joint trustees.

## § 983.69 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise, in connection with any provisions of this part or any regulation issued there under,

(b) Release or extinguish any violation of this part or any regulation issued there under, or

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(c) Affect or impair any rights or remedies of the Secretary, or of any other persons, with respect to such violation.

## § 983.70 Exemption.

Any handler may handle pistachios within the production area free of the requirements in §§ 983.38 through 983.45 and 983.53 if such pistachios are handled in quantities not exceeding 1,000 dried pounds during any marketing year. This subpart may be changed as recommended by the committee and approved by the Secretary.

## § 983.71 Relationship with the California Pistachio Commission.

In conducting committee activities and other objectives under this part, the committee may deliberate, consult, cooperate and exchange information with the California Pistachio Commission. Any sharing of information gathered under this subpart shall be kept confidential in accordance with provisions under section 10(i) of the Act.

## Subpart—Rules and Regulations

## § 983.138 Samples for testing.

Prior to testing, a sample shall be drawn from each lot and divided into two subsamples to be used to test pistachios for aflatoxin and for minimum quality. The lot subsamples shall be of sufficient weight to comply with Tables 1 and 2 of § 983.38 and Table 4 of § 983.39: *Provided*, That lots of pistachios which are intended for dyeing or color-coating shall be sampled for minimum quality after the dyeing or color-coating process.

[70 FR 61226, Oct. 21, 2005]

## § 983.141 Procedures for exempting handlers from minimum quality testing.

(a) *Exemption procedures.* The Committee, or its duly authorized agents, shall notify all handlers each year of the opportunity to apply to be exempted from minimum quality testing and handlers shall submit such requests on forms furnished by the Committee. The deadline for submission shall be August 1. The Committee, or its duly authorized agents, shall:

(1) Promptly review all exemption applications received. In reviewing applications for exemption, the Committee, or its duly authorized agents, shall determine that the quantity of assessed weight pistachios handled during the prior production year was less than 1 million assessed weight pounds and that the applicants are in compliance with the order's reporting requirements and the provisions of § 983.41. Handler compliance will be determined through handler audits;

(2) Complete the review and approve or disapprove requests for exemptions by August 20;

(3) Maintain complete files detailing the reason(s) for the approval or disapproval of each application for at least three years beyond the crop year of applicability; and

(4) Notify in writing all applicants by August 30 of the approval or disapproval of their requests together with the reason(s) for disapproval, if applicable.

(b) *Revocation of exemptions.* A handler's exemption shall be revoked by the Committee, or its duly authorized agents, if the handler fails to provide reports required under § 983.147, or has not complied with the provisions on minimal quality testing in § 983.41, of this part. Additionally, the Committee, or its duly authorized agents, shall revoke an approved exemption when a handler audit reveals that a handler has handled a million pounds or more of assessed weight pistachios during the current production year. The revocation of a handler's exemption shall be made in writing to the handler and shall specify the reason(s) for and the effective date.

(c) *Appeals.* (1) Any handler who believes that he/she has been improperly denied an exemption or improperly had an exemption revoked, may appeal to the Secretary, within 20 days after notification of the Committee's, or agents of the Committee's, decisions. All appeals shall be in writing. When requested by the Secretary, the Committee, or its duly authorized agents, shall forward a file with all pertinent information related to any handler appeal. The Secretary shall inform the handler and all interested persons of the Secretary's decision.

(2) If handlers do not file an appeal or if their appeal is denied by the Secretary, they shall present all remaining lots of pistachios in inventory for minimum quality testing before moving the pistachios into the channels of commerce.

[70 FR 42259, July 23, 2005]

**§ 983.143 Reinspection.**

(a) Any lot of inshell pistachios that is pin-picked, hand-sorted, color-sorted, and/or resized is considered to be "materially changed." Pistachios which are roasted, salted, flavored, air-legged, dyed, color-coated, cleaned, and otherwise subjected to similar processes are not considered to be materially changed.

(b) Each handler who handles pistachios shall cause any lot or portion of a lot initially certified for aflatoxin, quality, and size requirements, and subsequently materially changed, to be reinspected for aflatoxin, quality, and size, and certified as new lots: *Provided, That:*

(1) Pursuant to § 983.41(b) handlers exempted from minimum quality testing shall pull or have pulled representative lot samples for aflatoxin testing of any materially changed lots intended to be shipped into the domestic channels of commerce. Such representative lot samples shall be divided into two parts, one part shall be retested for aflatoxin and the other part shall be maintained for 90 days at the handler's facilities. Handlers shall make the samples maintained for 90 days available for auditing by the Administrative Committee for Pistachios; and

(2) Handlers exempted from order requirements under § 983.170 are exempt from all reinspection requirements.

[70 FR 61226, Oct. 21, 2005, as amended at 71 FR 51987, Sept. 1, 2006]

**§ 983.147 Reports.**

(a) *ACP-2, Failed Lot Notification.* Each handler shall notify the Administrative Committee for Pistachios (committee) of all lots which fail to meet the order's minimum quality requirements by completing sections A and B of this form. Handlers shall furnish this report to the committee no later than 10 days after test completion.